

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MISSOURI
SOUTHERN DIVISION**

JASON ADAM JENSEN,)	
)	
Plaintiff,)	
)	
v.)	Case No. 6:22-CV-03140-BCW
)	
CITIBANK, N.A., et al.,)	
)	
Defendants.)	

**STATE OF MISSOURI'S RESPONSE IN OPPOSITION TO
PLAINTIFF'S FIRST MOTION FOR LEAVE**

Plaintiff *pro se*, Jason Adam Jensen, filed his Motion for Leave to File a Third-Party Complaint (Doc. 85) against the State of Missouri, Governor Michael Parson and Joni Harding in their official capacities and John Doe 1-10, unnamed co-conspirators of the State of Missouri. Defendant State of Missouri¹ opposes Plaintiff's Motion as improper and unfounded.

Plaintiff's Motion should be denied because Plaintiff continues to violate the Court's Stay Order, the motion does not properly state a Third-Party Complaint, and Plaintiff did not/does not have authority to attempt service upon Governor Parson.

¹ Although not required and/or necessary, Governor Parsons – a non-party – joins in this Motion and contemporaneously filed Response to Plaintiff's Motion.

I. Statement of Facts

On or about June 1, 2022, Plaintiff filed his Complaint, Motion to Proceed in Forma Pauperis, and Affidavit of Financial Status. (Doc. 1-1, 1-2, 1-3). The Court ordered Plaintiff to amend his Complaint. (Doc. 3). On or about June 30, 2022, Plaintiff filed his Amended Complaint. (Doc. 5). On or about September 23, 2022, the Court entered an Order. (Doc. 6). Plaintiff was granted leave to proceed in forma pauperis with respect to Count I against JH Met and Gamache only, Count III against the Citibank defendants, and Count V against the State of Missouri and Stone County only. *Id.* at 9. All other named parties were dismissed including individuals in their official capacities. *Id.* at 10. Governor Michael Parson was never included as a party. *Id.*

Plaintiff has subsequently filed counterclaims and cross-claims without leave of Court. His pleadings do not name Governor Parson as any type of defendant. (Doc. 29, 36, 42, 44). Even though his initial pleadings do not name the Governor, Plaintiff attempted to serve the Governor. (Doc. 58). Governor Parson denied the validity of the January 11, 2023 service of process. (Doc. 60). On January 20, 2023, the Court Ordered this case stayed pending ruling on the State of Missouri's Motion to Dismiss. (Doc. 59). Governor Parson filed a Motion to Join the State of Missouri's Motion to Dismiss to the extent a response was required by Governor Parson even though he was not a defendant in this case. (Doc. 60). This Court granted Governor Parson's Motion to Join

the State's Motion to Dismiss. See Doc. 84. Plaintiff now files his Motion for Leave to File Third-Party Complaint against the State of Missouri, Governor Michael Parson and Joni Harding in their official capacities and John Doe 1-10, unnamed co-conspirators of the State of Missouri. (Doc. 85).

II. Argument

This Court should deny Plaintiff's Motion because (1) Plaintiff continues to violate the Court's Stay Order; (2) Plaintiff seeks leave to bring an improper motion; and (3) Plaintiff had no authority to attempt service upon Governor Parson and therefore, Governor Parson did not violate the American's with Disabilities Act ("ADA") or discriminate against Plaintiff.

First, Plaintiff's Motion should be dismissed because he continues to violate the Court's Stay Order. On January 20, 2023, this Court entered an Order staying this case pending a ruling on the State of Missouri's Motion to Dismiss. Plaintiff has subsequently filed numerous documents including the subject and current motion. Plaintiff's actions demonstrate his continued prosecution of this case while there is a Stay Order in place. Accordingly, Plaintiff's Motion should be denied at this time.

Second, Plaintiff's Motion is improper. Plaintiff's Motion seeks leave to file a Third-Party Complaint. However, a Third-Party Complaint is a claim asserted by a defendant against a non-party. Fed. R. Civ. P. 14(a). Plaintiff cannot assert a Third-Party claim. *Id.* Rather, the original defendant becomes

a Third-Party Plaintiff and the non-party becomes a Third-Party Defendant. *Id.* Here, Plaintiff seeks leave to file a pleading that he cannot bring. Accordingly, the Court should deny Plaintiff's motion.

Third, Plaintiff's allegations against the "Third-Party Defendants" are essentially that they denied service of process in violation of the ADA. Governor Parson is not a party and was never a defendant in this case, therefore, the attempted service of process was invalid. All claims proceeding from the ineffective service of process are invalid, unfounded, and constitute harassment.

Further, Plaintiff's allegations against the Governor in his official capacity are essentially claims against the State of Missouri, which is already a defendant. Plaintiff's claims against individuals in their official capacity are barred by qualified immunity and therefore, his pleadings must be denied.

For the foregoing reasons, the State of Missouri requests the Court:

1. deny Plaintiff's Motion for Leave to File a Third Party Complaint;
2. rule on the State of Missouri's Motion to Dismiss and dismiss Plaintiff's claims;
3. issue an Order prohibiting further filings by Plaintiff until the Court lifts the Stay Order; and,
4. for such other and further relief this Court deems just and proper.

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 24th day of May, 2023, a copy of the foregoing was filed through the Court's PACER system, which sent an electronic copy to all counsel of record, and to *Plaintiff Pro Se* at jasonjensen@gmail.com.

/s/ Anna Connelly
Assistant Attorney General